

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 2385 OF 2005

Shri Yashwant G. Sangare & Ors. ..Petitioners.
V/s.

The State of Maharashtra. ..Respondents.

Mr.Jayant Gohil for petitioners.

Ms.R.M.Gadhavi APP for State.

CORAM: A.M.KHANWILKAR, J

DATE : NOVEMBER 19, 2005.

P.C. :

1. This petition in essence questions the order passed by the Metropolitan Magistrate dated 13th July, 2005 in C.C.No.107/PW/2005 arising from C.R.No.135 of 2003 rejecting discharge application filed by the petitioner. Before this court as was argued before the Lower court, it is submitted that section 313 has no application to the case in hand, for which reason, the petitioners should succeed in the present petition. This argument does not commend to me. The Court below has rightly recorded that there is allegation in the F.I.R. asserting the fact that abortion of the complainant was done without her consent and forcibly.

2. To get over this position, counsel for the petitioner made reference to the statement of the Doctor Gogate which mentions that the complainant had consented for abortion. Even if such a statement is contained in the prosecution evidence collected so far, it is matter for trial. Accordingly, there is no substance in the present petition.

3. No other argument is pressed before me as petitioners seek liberty to take recourse of appropriate remedy at the relevant stage before the lower court as may be permissible by law. Hence, disposed of on the above terms.

4. I am informed that petitioner No.1 is paralytic patient and is senior citizen. If it is so, trial court will be well-advised to expedite hearing of the trial, to be preferably concluded within one year.